

GUIDE How to use the *Civil Aviation Safety Regulations 1998*

What this Guide is intended to do

1. This Guide is intended only to help you use the *Civil Aviation Safety Regulations 1998* effectively. It is not part of those Regulations and is not intended to take the place of reading them.

What are the Regulations?

2. The *Civil Aviation Safety Regulations 1998* ('CASR'), together with the *Civil Aviation Regulations 1988* ('CAR'), are the detailed legislation of the Commonwealth regarding aviation safety. Both of those sets of regulations are made under the *Civil Aviation Act 1988*. There are also Civil Aviation Orders made under CAR and that Act.

3. CAR were made in 1988 and have been amended many times since. They are being progressively reviewed as CASA brings its requirements into line with international standards and best regulatory practice. Major new policies are generally incorporated into CASR.

4. The intention is that the matter in CAR and the Civil Aviation Orders will be progressively brought into CASR. As part of that process, CASR is to be written in modern, easy-to-understand language.

5. CASR and CAR, and the Orders, are parts of Australian law. They are *delegated legislation*, made by the Governor-General (for the Regulations) or CASA itself (for the Orders) under authority given by the Commonwealth Parliament. The authority for the Governor-General to make the Regulations is in section 98 of the *Civil Aviation Act 1988*, and the authority for CASA to make the Orders is in subsection 98 (4A) of that Act and regulation 5 of the 1988 Regulations.

6. The Civil Aviation Act, CASR and CAR give effect to some of Australia's obligations under the Convention on International Civil Aviation (usually called the Chicago Convention) entered into at Chicago on 7 December 1944. The English texts of the Chicago Convention, and several Protocols amending it, are set out as Schedules to the Commonwealth *Air Navigation Act 1920*.

7. The Chicago Convention sets up the International Civil Aviation Organization (ICAO) as the regulatory body for international civil aviation. The Council of ICAO adopts Annexes (18 so far) to the Chicago Convention setting out 'international standards and recommended practices' (Chicago Convention, Art. 54 (*I*)). The Annexes provide the basis for aviation safety regulation throughout the world. The Annexes vary in length from a few pages to hundreds of pages, and are not set out in the Air Navigation Act.

8. The Civil Aviation Act, CASR and CAR are not the whole of the Commonwealth legislation regarding aviation. Aspects of aviation other than safety are regulated under (for example):

- the *Air Navigation Act 1920*
- the *Air Navigation Regulations 1947*
- the *Air Services Act 1995*
- the *Air Services Regulations 1995*
- the *Airspace Act 2007*
- the *Airspace Regulations 2007*

- the *Aviation Transport Security Act 2004*
- the *Civil Aviation (Carriers' Liability) Act 1959*.

How to read the Regulations

9. From this point on, in this Guide, unless the contrary is stated *the Regulations* means the *Civil Aviation Safety Regulations 1998*.

How the Regulations are organised

10. First, note that 'the Regulations' contains many 'regulations' within it. In other words, *Regulations* means the whole statutory document; *a regulation* is a particular kind of part of it.

11. The Regulations are divided into *Parts*, each *Part* dealing with a particular topic. A *Part* may be divided into *Subparts*, and a *Subpart* into *Divisions*. *Divisions* are divided into *regulations*, but a *Part* or *Subpart* can also be divided directly into *regulations* (that is, a *Part* need not have *Subparts*, and a *Subpart* need not have *Divisions*). An individual *regulation* may be divided into *subregulations*, a *subregulation* into *paragraphs* and a *paragraph* into *subparagraphs*. A *regulation* that is not divided into *subregulations* can be directly divided into *paragraphs*. (For how these levels of the structure are numbered and referred to, see paragraphs 16 to 24 below.)

12. All these levels of structure are made visible on the printed page by typographic devices such as variations in type size, bold type and indentation. This is how it looks in print (Acts look somewhat different but the principles are the same):

Part 1 **Part heading**

Subpart 1.A **Subpart heading**

Division 1.A.1 **Division heading**

1.000 **Regulation headings look like this**

This is the text of a regulation that is not divided into subregulations.

1.005 **Another regulation heading**

- (1) This is a subregulation.
- (2) This subregulation is divided into:
 - (a) a paragraph; and
 - (b) another paragraph that is itself divided into:
 - (i) a subparagraph; and
 - (ii) another subparagraph.

13. Incidentally, no other Commonwealth legislation contains Subparts. Generally, the levels of division are called *Part*, *Division*, *Subdivision*, and then *section* or *regulation*. Occasionally there is a level above *Part* called *Chapter*.

14. The division of the Regulations into Parts basically follows the framework of the Federal Aviation Regulations (FARs) of the USA and Joint Aviation Requirements (JARs), although some Parts of the Regulations have no equivalent in either the FARs or JARs. (For more information about the FARs and the JARs, see below.) The division of a Part into Subparts, Divisions and regulations is basically a matter of convenience — a Subpart, Division or regulation must be unified enough in subject-matter to be able to be accurately described by a reasonably short heading, in much the same way as a chapter or section in a book.

15. As a rule of thumb, drafters generally do not allow a single subregulation to be more than 5 or 6 lines long, nor a single regulation to contain more than 6 subregulations.

16. The Parts are numbered with numbers running from 1 to 202 (not continuously). Subparts are lettered with capital letters preceded by the Part number and a full stop, and Divisions are numbered, preceded by the Part number and letter. The sequence of Subpart letters in a Part, or Division numbers in a Subpart, is not necessarily continuous. Individual regulations are numbered with a number consisting of the number of the Part they are in followed by a 1, 2 or 3-digit number (for example, **183.100** in Part 183). In most Parts only every fifth regulation number will be used at first, to allow later amending regulations to be inserted in a logical sequence. Again, the sequence of regulation numbers is not necessarily a continuous sequence of multiples of 5.

17. The conventional numbering formats for subregulations, paragraphs and subparagraphs are as follows:

- subregulations: numerals in brackets
- paragraphs: lower-case letters in brackets
- subparagraphs: lower-case roman numerals in brackets.

18. A regulation not divided into subregulations is given only a regulation number and not a subregulation number as well.

19. A provision at any level of subdivision is considered to contain all the lower-level provisions that occur within it. For example, a reference to ‘Part 21’ includes every provision (Subpart, Division, regulation, paragraph and so on) in that Part.

20. References to regulations, subregulations, paragraphs and subparagraphs in the Regulations are in accordance with those conventions. For example, a reference to another regulation would be in the form ‘regulation 21.204’. A reference to a subregulation of that regulation would be in the form ‘subregulation 21.204 (2)’. A reference to a paragraph in that subregulation might be ‘paragraph 21.204 (2) (b)’.

21. Acts are divided into sections and subsections instead of regulations and subregulations, but otherwise work in exactly the same way. The number of a section of an Act is a number without brackets, and the number of a subsection is enclosed in brackets, as is the number of a subregulation.

22. Some people find confusing the way in which legislative provisions refer to a series of other provisions — for example, ‘subregulation 21.204 (3) or (4)’ instead of ‘subregulation 21.204 (3) or subregulation 21.204 (4)’.

23. The form ‘subregulation 21.204 (3) or (4)’ is the way that Commonwealth legislation sets out such strings of cross-references. In Commonwealth practice there are standard ways of writing the references for the different levels of provision, as described above. For example, a reference like ‘(3)’ (that is, a numeral in brackets) is *always* to a subsection or subregulation, so to translate it you go back to the nearest previous occurrence of ‘subsection’ or ‘subregulation’. If that occurrence is immediately followed by a number *without* brackets, that number is the number of another section or regulation that contains the subsection or subregulation. If there is no section or regulation number, the reference is to another subsection or subregulation in the same section or regulation. For example:

A reference like:	refers to:
subsection (3)	another subsection in the same section
subregulation (3)	another subregulation in the same regulation
or (3)	another subsection or subregulation in the same section or regulation as was last mentioned
, (4),	yet another subsection or subregulation in the same section or regulation as was last mentioned
paragraph (b)	another paragraph in the same subsection or subregulation as the paragraph in which the reference occurs
or (b)	yet another paragraph in the same subsection or subregulation as was last mentioned

... and so on. References to different levels of provision are kept separate — for example, the form ‘subsection 60 (4) or paragraph 60 (5) (a)’ is used rather than ‘subsection 60 (4) or (5) (a)’.

24. The gaps between regulations may be filled in later by adding new regulations. When a new regulation must be added, the drafter tries to put it into a place where it fits logically. If there is no gap in the numbers for the new regulation, the new regulation gets the number of the last regulation before the gap, but with a capital letter added. For example, regulation 21.305 might be followed by regulation 21.305A.

25. Some regulations contain tables. A table in a regulation is numbered the same as the regulation. Thus, Table 101.250 will be found in regulation 101.250. In the case of there being 2 or more tables in 1 regulation, the tables would be numbered (say) Table 101.250-1, 101.250-2, 101.250-3, and so on.

26. Some regulations and other provisions have an Appendix. An appendix is numbered the same as the provision it belongs to, and follows either the regulation it belongs to, or (if the appendix belongs to a lower-level provision) the regulation that contains the lower-level provision. An appendix is part of the regulation it is connected with.

Use of ‘and’ and ‘or’ between paragraphs etc

27. A regulation or subregulation may contain a series of paragraphs, and a paragraph may contain a series of subparagraphs. The series of paragraphs or subparagraphs will either be preceded by ‘the following’ (or some equivalent expression), or will be joined by *and* or *or* to show whether the series is to be read conjunctively or disjunctively. If a conjunction is used, the same conjunction will be either expressed or implied between each paragraph and the one that follows it. That is, the forms:

- ‘(1) This is:
- (a) a paragraph; and
 - (b) another paragraph; and
 - (c) yet another paragraph.’;

and

- ‘(2) This is:
- (a) a paragraph; or
 - (b) another paragraph; or
 - (c) yet another paragraph.’;

are legitimate, but the form:

- ‘(2) This is:
- (a) a paragraph; and
 - (b) another paragraph; or
 - (c) yet another paragraph.’;

is not used because the series is not clearly either conjunctive or disjunctive.

28. If all the paragraphs or subparagraphs in a series are to be read as alternatives, the series is preceded by *the following* or a similar expression, and no conjunctions are used — for example:

- ‘(1) The alternatives are the following:
- (a) a paragraph;
 - (b) another paragraph;
 - (c) yet another paragraph.’.

29. Up till a few years ago, it was Commonwealth drafting practice to put a conjunction after only the second last paragraph or subparagraph in a series, and that conjunction was read as governing the whole of the series. Many other jurisdictions still follow that rule. However, Commonwealth practice is now to insert the conjunction after every paragraph (except the last). No difference in meaning is intended between, for example:

- ‘(1) This is:
- (a) a paragraph;
 - (b) another paragraph; or
 - (c) yet another paragraph.’;

(the older form without *or* at the end of the first paragraph), and:

- ‘(2) This is:
- (a) a paragraph; or
 - (b) another paragraph; or
 - (c) yet another paragraph.’

Definitions and meanings

30. A piece of legislation often includes definitions of terms used within it. The terms defined are principally the ones that are specific to the legislation in some way — for example because they have been specially invented. Ordinary dictionary words are not normally defined; they are assumed to take their ordinary dictionary meanings. Terms defined in the Act take the same meanings in the Regulations unless redefined in the Regulations. Legal terms also are not normally defined; again, they are assumed to have their ordinary legal meanings.

31. Naturally, the Regulations use many technical terms. A term of which the meaning is well known within aviation and generally accepted is usually not defined. If an unfamiliar word or term occurs in the Regulations, it may be defined in a general dictionary. For example, *chord*, *empennage*, *fuselage*, and *longeron* are all defined in the *Macquarie Dictionary*.

32. Occasionally a term that is in general use may be defined because the general meaning of the term is not sufficiently precise. For example, although everybody knows what ‘take-off’ means, it may be necessary, in a particular case, to treat taxiing as part of a take-off. It is not certain whether the ordinary meaning of ‘take-off’ includes taxiing or not. In cases like this there will be a definition in the Regulations.

33. Definitions may be either in the Dictionary at the end or in the text of the Parts.

34. A few terms that are used in the Regulations and that are not defined either in the Regulations or in standard dictionaries are discussed in the Note on Terms at the end of this Guide.

35. Although the Dictionary is not called a Part of the Regulations, and is not numbered, it is as much part of the Regulations as any of the numbered Parts.

36. If a definition that applies throughout the Regulations is in the Regulations but not in the Dictionary, there is a ‘signpost’ in the Dictionary to the regulation where the definition is. For example:

major change, for a type design — see regulation 21.93.

37. The standard definitions of aviation terms are those laid down by ICAO and published by it in *International Civil Aviation Vocabulary* (ICAO Document 9713). Generally, terms defined by ICAO are used in the Regulations with the meaning given by ICAO. There may still be a definition in the Regulations, but the definition will usually be followed by a note to the effect that the source of the definition is the ICAO definition. (The ICAO definition will either be used unchanged, or rewritten in minor ways to be clearer and easier to read.) Often, where a term defined in the Regulations is used, there will be a note nearby saying where to look for the definition.

38. See Subpart 1.A for general provisions about interpretation and definitions.

Offences

39. In Commonwealth legislative usage, *offence* means conduct that is prohibited subject to a penalty (either a fine or imprisonment). If the sanction for conduct is the withdrawal of a privilege (for example, cancellation of a licence) that conduct is not an offence in this sense.

40. Many offences created by the Regulations are offences of strict liability. This is given meaning by section 6.1 of the Commonwealth *Criminal Code*, which is the Schedule to the Commonwealth *Criminal Code Act 1995*.

41. The following brief explanation of section 6.1 of the Code is not by any means the full story. The whole of Chapter 2 (*General principles of criminal responsibility*) of the Code should be read if you need a fuller understanding.

42. For somebody to have committed an offence, he or she must at least have done (or not done) an act. He or she may also have had to have a particular mental state about the act — that is, he or she must have done the act intentionally, recklessly, or negligently. For some offences the mental state is part of the definition of the offence, as in ‘wilful murder’ — *wilful* in this case meaning *intentional*. In such cases the prosecution must prove that the accused person both did the act and had the necessary mental state. For offences of strict liability, however, no mental state forms part of the definition of the offence, and the prosecution need not prove that the act was done intentionally, negligently or recklessly, but only that it was done by the person accused.

43. Strict liability has nothing to do with the seriousness of an offence — in fact, the less serious an offence is, the more likely it is to be one of strict liability.

44. Strict liability also does not take away any defences that would otherwise be available — in fact, before it became necessary to state that an offence was strict liability, if the defence of ‘reasonable excuse’ was available for the offence, the courts regarded that fact as an indication that the offence was intended to be one of strict liability.

45. Strict liability also does not mean that an assertion by the prosecutor is enough to get the defendant convicted. Strict liability or not, the prosecution must still put before the court evidence that establishes the defendant’s guilt beyond reasonable doubt.

46. There are also provisions in the Commonwealth *Crimes Act 1914* relevant to matters like the legal burden of proof.

47. Fines for offences created by the Regulations are expressed in penalty units. The amount of the penalty unit is specified in section 4AA of the *Crimes Act 1914*. Currently, 1 penalty unit is \$110.

How the Parts relate to each other

48. Many of the Parts deal or will deal with particular kinds of aviation activity — for example, Part 101 will deal with the operation of unmanned aircraft and rockets and Part 103 will deal with sport and recreational aviation operations. Each of those Parts is constructed to be as self-contained as possible, so that if you want to know what rules apply to sport flying you will find them all together.

49. However, there are other Parts dealing with particular issues such as aircraft registration or marking. These other parts may or may not apply to particular kinds of aircraft or a particular activity. For example, an unmanned aircraft usually does not need to be either registered or marked, so that neither Part 45 (dealing with marking) nor Part 47 (which deals with registration) apply to it. If an ancillary part such as Part 45 does not apply to a particular kind of aircraft or aviation operation, that fact will always be stated in the particular Part that applies to the aircraft or activity.

50. Most Parts include a regulation headed ‘Applicability of this Part’ that sets out the activities to which the Part applies.

Notes and this Guide

51. Notes in the text, like this Guide, are not part of the Regulations even though they appear with the text of the Regulations (see regulation 1.007). Like this Guide, notes are intended only to help you use the Regulations. However, if the text of the Regulations is ambiguous or unclear, Commonwealth law allows a Court to use the notes or this Guide to help it work out what the text means. (For more information, see the Commonwealth *Acts Interpretation Act 1901*, section 15AB.)

Incorporated manuals

52. Many Parts of CASR are supported by a Manual of Standards that contains detailed technical material, such as technical specifications and standards. The text of a Manual is often incorporated in CASR by reference. There will usually be a definition of ‘Manual’, ‘Manual of Standards’ or ‘MOS’ (probably followed by a reference to a Part of CASR), which will say something like:

‘For this Part (*that is, Part of the Regulations*):

‘**MOS Part 43** means the document called *Manual of Standards — Part 43*, published by CASA, as in force from time to time’.

Note that for a particular Part of CASR, only part of the Manual may be incorporated, and that part of the relevant Manual is what ‘Manual’ or ‘MOS’ will mean for that Part.

52A. A Manual of Standards is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and must be registered, and made publicly available, as required by that Act. The Federal Register of Legislative Instruments established under that Act is accessible on the World Wide Web at <http://www.comlaw.gov.au>.

53. A Manual may be amended from time to time, but the amendments will be done in a similar way to amendments to CASR or CAR (for the procedure, see paragraphs 79 to 91A of this Guide).

How to find things in the Regulations

54. The Regulations and the notes contain many cross-references. Cross-references are always by provision number, and no page number references are given. This is because, when the text is printed from an on-line service, there is no way to know what page a provision will appear on. Page numbers will of course also change as the text is amended.

55. However, the Table of Contents (immediately before this Guide) lists provisions by number and gives page references. The page numbers in this Table will always be correct in an officially printed copy, and should also be correct in one that has been printed from a fully formatted on-line version.

56. The page headings in a copy printed in any of those ways give the Part number and Subpart letter, and the Part and Subpart titles, for the text on that page. The page header on a left-hand page gives the number of the regulation that starts nearest the top of the page. The page header on a right hand page gives the number of the regulation that starts nearest the bottom of the page.

57. Each Part also contains a table of the Subparts, Divisions and regulations in the Part. That table is in the form of a note immediately after the Part heading.

The FARs

58. The FARs are the Federal Aviation Regulations, part of the Code of Federal Regulations of the United States of America. The FARs are the exact equivalent, in the context of the United States, of these Regulations. However, there are considerable differences between the legal systems of the United States and Australia, and US analogies and practices must be treated with caution in Australia. Also, the legal drafting style of the Code of Federal Regulations, and of US legislative drafting generally, is markedly different to that of Australia.

The JARs

59. The Joint Aviation Requirements are a package of common aviation legislation now being developed by the Joint Aviation Authorities. The Joint Aviation Authorities (JAA) is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to cooperate in developing and implementing common safety regulatory standards and procedures.

60. The JARs do not themselves have the force of law, but may be adopted into the law of member countries of the ECAC or European Union.

Other things that may be useful

61. CASA publishes a wide range of information about aviation and its role as regulator of aviation safety. For example, CASA publishes material supplementary to the Regulations in the form of Advisory Circulars setting out recommended practices and suggesting ways of effectively meeting the requirements of the Regulations.

62. CASA does not investigate aviation-related accidents or incidents — this is the role of the Australian Transport Safety Bureau, which is an operating arm of the Department of Transport and Regional Services. The Bureau publishes various reports relating to its investigations and material about aviation safety generally.

62A. The Australian Transport Safety Bureau also operates the Aviation Self Reporting Scheme established under s 30DN of the Act. For further details, see Subpart 13.K of the Regulations.

63. CASA does, however, investigate (in conjunction with type certificate holders and registered operators) defects reported to it under the Major Defect Reporting System. For more information on this system, contact CASA or visit its web site (for the URL, see paragraph 71 below).

How to obtain documents mentioned in this Guide or the Regulations

Websites mentioned in this Guide

65. This section gives URLs for a number of websites that may be useful. If you are reading this Guide on line from the SCALEplus or CASA website mentioned below, you may be able to click on any of the embedded URLs in the text to go directly to the associated website. The URLs given were correct when this Guide was prepared, but cannot be guaranteed to remain so.

Sites for other Commonwealth law

66. The Commonwealth Attorney-General's Department maintains a website called Australian Law Online (<http://www.law.gov.au/>) that includes a database called SCALEplus (<http://scaleplus.law.gov.au>) from which you can browse, search and download all Commonwealth Acts and Regulations, and many other statutory instruments. Those services are free. A number of other service providers also make texts available on line — some are noted below.

67. Printed official copies of Regulations (both amending regulations and consolidated up-to-date versions of principal regulations) are available from:

- CanPrint Communications
16 Nyrang Street
Fyshwick ACT 2609
- Info Vic
356 Collins Street, Melbourne VIC 3000
Tel: 1300 366 356 Fax: (03) 9603 9920
- University Co-operative Bookshop Ltd
Law School, Shop 2, 153 Phillip Street, Sydney NSW 2000
Tel: (02) 9232 2250

or by mail from:

- CanPrint Information Services
PO Box 7456
Canberra Mail Centre ACT 2610
Tel: 1300 656 863
Fax: (02) 6293 8333.

Further details about sales of legislation are available at <http://scaleplus.law.gov.au/legsales.htm>.

69. CASA also has an electronic text of the regulations on its website (URL below, paragraph 71), and sells a consolidated paper version of the Regulations. The paper version is available by mail from the Airservices Publication Centre at:

Airservices Australia Publication Centre
Locked Bag 8500
CANBERRA ACT 2601

or

www.airservices.gov.au/publications.

70. All Commonwealth, State and Territory legislation is also available from a website maintained by the Australasian Legal Information Institute (AustLII) at <http://www.austlii.edu.au/>. This facility is jointly maintained by the Law Faculties of the University of Technology, Sydney and the University of New South Wales. The texts can be downloaded free. However, the site is not an official government site and the texts are not guaranteed to be up to date.

71. CASA itself has a website (<http://www.casa.gov.au>) which contains texts of the *Civil Aviation Safety Regulations 1998*, the *Civil Aviation Regulations 1988*, Civil Aviation Orders and CASA's Advisory Circulars and Civil Aviation Advisory Publications. All of these documents can be downloaded free. CASA's website also contains draft texts for public comment of proposals for amendments to these Regulations, and many other CASA publications. CASA's mail address and telephone number are:

GPO Box 2005
CANBERRA ACT 2601
Telephone 131 757.

The Australian Transport Safety Bureau

72. The ATSB's postal address is:

Australian Transport Safety Bureau
PO Box 967
Civic Square ACT 2608
Australia
Telephone (Australia) 1800 621 372
Facsimile (Australia) 02 6247 6474.

73. It has a website at <http://www.atsb.gov.au/>.

ICAO publications

74. The Chicago Convention itself is available on-line at <http://www.austlii.edu.au/au/other/dfat/treaties/19570005.html> or from SCALEplus as part of the text of the *Air Navigation Act 1920*. The Annexes are not included, but are available from ICAO on paper or CD-ROM or by on-line subscription.

75. ICAO's home page is <http://www.icao.int/>. There is no ICAO office in Australia. ICAO publications are available from:

ICAO, Document Sales Unit
999 University Street, Montreal, Quebec H3C 5H7
Canada
Telephone: (514) 954-8022
Fax: (514) 954-6769

or

<http://www.icao.int/icao/en/sales.htm>.

76. ICAO has some documents available free on-line, but these do not include the Annexes. There is no free on-line source for the Annexes.

FARs

77. The Federal Aviation Regulations are available from a number of on-line sources including the official US Government Printing Office site at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html> and from the FAA itself at <http://www.faa.gov/>. Printed copies can be ordered from commercial legal publishers in the USA.

JARs

78. The JAA has a website at <http://www.jaa.nl>. The Joint Aviation Requirements are available from that site by Internet subscription or on CD-ROM or paper. There is no free download service.

How to seek changes to the Regulations or Manuals of Standards

79. This section sets out how you can ask CASA for a change to CASR or CAR or a Manual of Standards, and what CASA will do in processing your request.

80. If you think that a change to the Regulations, a Manual of Standards or advisory information is necessary, you should set out your suggestion in writing, and send it to CASA's Regulatory Development Management Branch at any of:

Freepost: REPLY PAID 2005
Civil Aviation Safety Authority
CANBERRA ACT 2601; or

email: review@casa.gov.au; or

fax: (freefax) 1 800 653 897;

or deliver it to CASA at:

CASA Building
Corner Barry Drive and Northbourne Avenue
CANBERRA CITY ACT.

81. Your request should contain:

- your name
- the substance of the change you propose
- your reason for being interested

- a comprehensive justification of the proposal
- any information you have that supports the change.

82. CASA will register your request, acknowledge it, and submit it to an internal CASA regulatory development review committee for consideration. If that committee considers that the proposal should be pursued, CASA will submit the proposal to the Standards Consultative Committee (an industry consultative body). If that Committee supports the proposal, a CASA project for the proposed change will be set up.

83. Before taking any action, CASA will consider any comments received about the subject of your request, and will tell you whether they propose to go ahead with a change or not, and the reasons for the decision.

84. The next stage is formulation of the draft proposal and public consultation on it. CASA is required by section 16 of the *Civil Aviation Act 1988* to consult with ‘government, commercial, industrial, consumer and other relevant bodies and organisations (including ICAO and bodies representing the aviation industry)’.

85. The basic procedure for consultation on a proposed change to the Regulations is as follows:

- CASA publishes a notice of its intention to make a rule, and the availability of the proposed rule, in a national newspaper and on its website
- the actual rulemaking proposal is released publicly as a Notice of Proposed Rule Making (*NPRM*), which sets out the proposed change and supporting information
- anybody interested has a reasonable time (normally 8 weeks) to comment.

The procedure for consultation on a change to a manual is similar except that the formal notice is called a Notice of Proposed Change (*NPC*).

86. An *NPRM* will include the actual text of the proposed amending Regulations, as drafted by the Office of Legislative Drafting and Publishing of the Commonwealth Attorney-General’s Department. The *NPRM* will also include:

- an introductory statement (‘Foreword’) extending an invitation to comment on the proposal
- background information, including a description of the problem addressed and why rule-making is necessary
- the objectives of the proposed rule
- the options that were considered and the constraints making them viable or not
- an impact analysis setting out the advantages and disadvantages of those options, and a description of the subjects and issues involved
- a Guide on how to comment (including addresses).

It may also include copies of proposed supporting material such as a draft Manual of Standards or guidance or advisory material. An *NPC* is similarly organised but the proposed change document is drafted by CASA technical specialists in cooperation with a CASA legislative drafter.

87. The notice will also give the date by which comments must be submitted, and where to send comments. There will be a response sheet in the *NPRM* or *NPC*, and you are urged to use it in responding. There is also an online response system at <http://rrp.casa.gov.au/ors.asp>.

88. Requests for extension of time to comment should be sent to CASA no later than 2 days before the announced expiry time. It may not be possible in a particular case to

allow an extension of time to comment. However, extensions are normally granted if you have a substantive interest in the proposed change and a good reason for the extension. Bear in mind that extending the time for comment will delay the process.

89. Anybody can make a comment on a proposed change. Comments must be in writing and should preferably be submitted on the response form.

90. CASA will register all comments made. After the time for comments (or any extension of it) expires, CASA will evaluate all the comments received, and publish a summary of those comments, CASA's response to them, the action taken, CASA's policy, the action being taken, the finalised draft Regulations or manual change, and any associated guidance and supporting materials.

91. Finally, for changes to the Regulations only, the Minister for Transport and Regional Services must decide whether to recommend to the Governor-General that the proposed amending Regulations be made. If the Minister approves the proposed change, he or she submits the text of the proposed amending Regulations to the Governor-General for making as Regulations. After the amending Regulations are made, they are registered in the Federal Register of Legislative Instruments maintained under the *Legislative Instruments Act 2003*, and copies of the official text are made available. The Regulations are also tabled in each House of the Parliament within 6 sitting days after making, and then within a further 15 sitting days any Member or Senator can move to disallow them.

91A. Authority to issue a MOS rests with the Director of Aviation Safety. A MOS is also a legislative instrument and must be registered and tabled, and is subject to disallowance, in the same way as Regulations.

91B. After an amendment to either the Regulations or a MOS, a 'compilation' (setting out the text of the Regulations or the MOS as amended) must be prepared and placed on the Federal Register of Legislative Instruments. A compilation of the Regulations as amended is prepared by the Office of Legislative Drafting and Publishing and is normally registered on the same day as the Regulations as amended commence. CASA is responsible for preparing compilations of a MOS as amended.

Note on terms

92. As mentioned above, there are terms used in the Regulations that are well recognised in the aviation industry, but are not standard dictionary words, or that have a meaning that is not obvious from the meanings of the words that make them up. Because nobody who is expert in aviation needs to have such terms explained, there are no definitions of them in the Dictionary. However, some explanations are set out below for convenience.

Avgas means aviation gasoline. Petrol (gasoline) is graded according to volatility and octane rating. Avgas is petrol within the volatility and octane ranges approved for aircraft piston engines. (Some engines are approved to run on ‘mogas’ — that is, ordinary car fuel.) For other terms relating to fuel, see **Jet A-1**, **JP-1** and **JP-4**.

CAS means calibrated airspeed — that is, indicated airspeed corrected for position error and instrument error.

Controlled airspace is airspace in which aircraft are subject to air traffic control. For more details, see the *Airspace Regulations 2007* and the determinations made by CASA under regulation 5 of those Regulations.

Endorsement (of a licence) is used in connection with some kinds of licences to mean a subsidiary location-specific qualification. For example, an air traffic control licence must be endorsed for a particular location or particular airspace.

Flight level (FL): Altitudes above a certain altitude called the transition altitude (currently 11 000 feet in Australia, possibly different in other countries) are often expressed as flight levels. A **flight level** is a pressure altitude expressed as a 3-digit number that represents hundreds of feet. For example, FL 290 is equivalent to a pressure altitude of 29 000 feet, and FL 295 is equivalent to a pressure altitude of 29 500 feet. (Note that *altitude* is not the same as *height*. Both terms are defined in the Dictionary.)

Jet A-1 is the usual term in Australia for the grade of hydrocarbon fuel approved for use in aircraft turbine engines. It is similar to power kerosene in terms of volatility. (Kerosene-type fuels are not graded by octane number.) In US military usage, a similar fuel is called ‘JP-1’.

JP-4 is a wide-cut hydrocarbon fuel used as a turbine engine fuel in some parts of the world, but not permitted for aviation use in Australia.

Pressure altitude is the altitude shown by a barometric altimeter on which the pressure subscale is set to 1 013.2 hectopascals. (This is the ‘sea level’ pressure in the International Standard Atmosphere.) Depending on what the actual barometric pressure at sea level is at the time and the actual pressure lapse rate with height, the pressure altitude shown on such an altimeter may or may not be its actual altitude.

Rating means an endorsement on a licence that confers specific privileges, or is evidence of the holder being permitted to do particular things. For example, a person who holds an aircraft maintenance engineer licence may hold 1 or more ratings, such as a rating for a particular aircraft type. Normally a licence must be endorsed with at least 1 rating before the licence actually authorises its holder to do anything.

TAS means true airspeed — that is, the actual speed of an aircraft through the air. It is worked out by correcting the aircraft’s indicated airspeed for altitude, temperature, position error and compressibility effects.

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